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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/431,659 10/29/99 OVADIA

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EXAMINER

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WAKS, J

ART UNIT

PAPER NUMBER

2834  
**DATE MAILED:**

02/08/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/431,559	OVADIA, SHMUEL	
	<b>Examiner</b>	<b>Art Unit</b>	
	Joseph Waks	2834	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

## Status

1)  Responsive to communication(s) filed on 29 October 1999 .

2a)  This action is **FINAL**.                            2b)  This action is non-final.

3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

4)  Claim(s) 1-12 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5)  Claim(s) \_\_\_\_\_ is/are allowed.

6)  Claim(s) 1-12 is/are rejected.

7)  Claim(s) \_\_\_\_\_ is/are objected to.

8)  Claims \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

9)  The specification is objected to by the Examiner.

10)  The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.

11)  The proposed drawing correction filed on \_\_\_\_\_ is: a)  approved b)  disapproved.

12)  The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

13)  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

a)  All b)  Some \* c)  None of the CERTIFIED copies of the priority documents have been:

1.  received.

2.  received in Application No. (Series Code / Serial Number) \_\_\_\_ .

3.  received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

14)  Acknowledgement is made of a claim for domestic priority under 35 U.S.C. & 119(e).

**Attachment(s)**

14)  Notice of References Cited (PTO-892)  
15)  Notice of Draftsperson's Patent Drawing Review (PTO-948)  
16)  Information Disclosure Statement(s) (PTO-1449) Paper No(s) 4,5 .

17)  Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_  
18)  Notice of Informal Patent Application (PTO-152)  
19)  Other: \_\_\_\_\_

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## **DETAILED ACTION**

### ***Priority***

Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

### ***Specification***

1. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: a predetermined element as recited in claim 1.

### ***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. **Claims 1-12** are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

In claims 1 and 5 the predetermined element is not identified in the specification..

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In claim 7 the piping system having a first conduit leading the hydraulic fluid into the tank when the piston is contracted and a second conduit leading the hydraulic fluid into the tank when the piston is extended is not supported by specification and drawings.

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. **Claims 1-12** are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The claims are replete with indefinite language like for example:

In claim 1, line 5, "buoyancy apparatus" should be --a buoyancy apparatus--, line 6, "wave energy collection apparatus" should be --a wave energy collection apparatus--, line 7, "coupling apparatus" should be --a coupling apparatus--, lines 11-12, "hydraulic fluid" should be --a hydraulic fluid--, line 13, "a stationary support" should be --said stationary support--, lines 13-14, "its other end" should be --another end--.

Please correct the claims to meet the 35 U.S.C. §112 requirements.

In claim 5, line 5, "buoyancy apparatus" should be --a buoyancy apparatus--, line 6, "wave energy collection apparatus" should be --a wave energy collection apparatus--, line 7, "coupling apparatus" should be --a coupling apparatus--, lines 12 and 14, "each support arm" should be --each of said support arms--, line 15, "equal length" should be --an equal length--, line 17, a generally vertical plane" should be --said generally vertical plane--line 20, "said central

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axis" and "the side" lack antecedent basis, lines 22-23, "hydraulic fluid " should be --a hydraulic fluid--, line 25, "a stationary support" should be --said stationary support--.

In claim 7, line 2, "said pressure tank" lacks antecedent basis.

Please correct the claims to meet the 35 U.S.C. §112 requirements.

***Claim Rejections - 35 USC § 102***

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. **Claims 1-5** are rejected under 35 U.S.C. 102(b) as being anticipated by **Vowles et al.** (US 5,405,250).

**Vowles et al.** disclose in Figures 4a, 4b, 6, and 7 invention as claimed: a system for conversion of wave energy in a body of water having a floor and including a stationary support element 5, 17 rigidly mounted to the floor (Re column 4, lines 48-52), a buoyancy apparatus including a buoy portion 23 formed with an energy collection apparatus in the form of a cavity 24a having a sloped opening 24b facing the oncoming waves 25 and a wave diversion surface 27a, a coupling apparatus comprising two parallel arms 2 of equal length (Re Figure 6) allowing the buoyancy apparatus to move in a portion of a circular path with respect to the support element, a piston apparatus 8, and a

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piping system 22 connecting the piston with a hydraulic motor (Re column 5, lines 67-68 and column 6, lines 1-4), an a counterbalancing weight 3.

***Claim Rejections - 35 USC § 103***

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. **Claims 6 and 8-12** are rejected under 35 U.S.C. 103(a) as being unpatentable over **Vowles et al. (US 5,405,250)** in view of **Buonome (US 4,454,429)**.

**Vowles et al.** disclose the conversion system essentially as claimed. However, **Vowles et al.** fail to disclose the piping system having a pressure tank and a piping system connecting a hydraulic fluid from the piston apparatus to the pressure tank and further connecting the pressure tank to the hydraulic motor.

**Buonome** discloses in Figure 1 the piping system 15, 22 having a pressure tank 17 and the piping system connecting the hydraulic fluid from the piston apparatus 14 to the pressure tank and further connecting the pressure tank to the hydraulic motor 24, a fluid reserve tank 21, one way valves 16, 20, a pressure relief valve 18, and gas maintained at a high pressure (Re

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column 4, lines 5-6), for the purpose of maintaining the pressure demand in the hydraulic fluid system during the time when the water action is insufficient to meet the demand.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to design the conversion system as taught by **Vowles et al.** and to provide the piping system having a pressure tank and a piping system connecting a hydraulic fluid from the piston apparatus to the pressure tank and further connecting the pressure tank to the hydraulic motor as taught by **Buonome** for the purpose of maintaining the pressure demand in the hydraulic fluid system during the time when the water action is insufficient to meet the demand.

***Prior Art***

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

***Communication***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph Waks whose telephone number is (703) 308-1676. The examiner can normally be reached on Monday through Thursday 8 am to 5 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nestor R Ramirez can be reached on (703) 308-1371. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 305-1341 for regular communications and (703) 305-1341 for After Final communications.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1782.

**JOSEPH WAKS**  
**PATENT EXAMINER**  
**TC-2800**

JW  
February 5, 2001

